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**Human Rights Council**
**Thirty-eighth session**
18 June-6 July 2018
Agenda item 3
**Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development**

# Written statement* submitted by the World Federation of Ukrainian Women's Organizations, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[25 May 2018]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

GE.18-10246(E)
*1810246*

Please recycle

# Ukraine: Freedoms Under Fire

The World Federation of Ukrainian Women's Organizations wishes to focus the attention of the international community on the deterioration of human rights continuing in Ukraine, particularly on the dramatic constraints on freedoms of expression and access to information that have been imposed by the Russian Federation after its occupation and illegal annexation of Ukraine's Autonomous Republic of Crimea.

Since the onset of Russian interventions in Crimea and Ukraine's Donbas, Ukraine has become one of the world's most dangerous environments for civil society activists and journalists. Over the last four years, a large number of journalists have been kidnapped, held in prolonged, arbitrary and incommunicado detention, subjected to torture and other ill-treatment, even to the death, both in Crimea and in the separatist-controlled areas of the Donbas.

Journalists who attempt to report on the self-proclaimed Republics in Ukraine's eastern territory face serious challenges. According to the Ukrainian NGO Telekritika, the lives of those reporting on the armed conflict are under serious threat. Ukrainian media outlets do not prioritize the security of their reporters, even when they are working in conflict zones. The Committee to Protect Journalists says that at least five journalists and two media workers have been killed in Eastern Ukraine since 2014. Approximately 3200 people have been captured since the beginning of the conflict in Donbas by the authorities of the self-proclaimed People's Republic of Donetsk (DNR) and People's Republic of Luhansk (LNR), with 117 remaining in imprisonment in February 2017.

According to the European Parliament's Resolution adopted in March 2017, at least 62 Ukrainian citizens had been illegally prosecuted for political reasons by the Russian law enforcement agencies, 49 of them residents of Crimea. At least 17 citizens of Ukraine were still being illegally detained in the Russian Federation and 15 in occupied Crimea. At least a hundred Ukrainians were being kept hostages in appalling conditions in the Donetsk and Luhansk regions.

Systemic violations of the right to freedom of expression continue to occur in Crimea and the Donbas, where access to Ukrainian and independent media has been blocked and any criticism of the *de facto* Russian authorities is not tolerated. The situation with the right to freedom of expression in the DNR and LNR remains particularly difficult. Human rights groups such as Reporters without Borders and Freedom House have denounced the absence of investigative journalists and foreign observers in the territories and the censorship of the media by the *de facto* authorities. Since 2014 scores of Ukrainian media outlets have been closed or had to relocate from the separatist-controlled area. Due to lack of access to the DNR and LNR territories, human rights organizations have not been in a position to document all cases of human rights violations. The Institute of Mass Information documented 12 violations of freedom of speech in 2016 and 17 violations in 2015. These included blockage of Ukrainian and international media, censorship, and cases of harassment, both physical and psychological attacks against journalists and bloggers.

The DNR and LNR have been cut off from Ukrainian media and other information sources. More than 100 Ukrainian online media have been blocked and access to all Ukrainian TV channels has been closed. Only local pro-governmental channels as well as Russian channels are available. Based on a survey conducted by GfK Ukraine and the Institute of Mass Information, 91% of people in DNR and LNR regularly watch television but broadcasting is limited to only Russian and separatist-controlled channels. Meanwhile, people living on the Ukrainian government-controlled territory of Donbas watch mostly Ukrainian television (88%) and only 16% of them choose Russian channels. The Ukrainian experts who conducted the survey noted the potentially deleterious effects of active propaganda and information isolation on the people living in those communities within the separatist controlled territories.

Ukraine is facing grave challenges. In addition to the need to protect civilian lives and the journalists reporting on the war, the Ukrainian government and civil society organizations have been engaged in confronting Russian propaganda aimed at swaying the minds of Ukrainians at home and abroad, as well as the wider international community. In 2014, the Stopfake.org collaborative platform created by students and lecturers from Journalism Department of Kyiv-Mohyla Academy started its work of identifying false information about the events in Ukraine. The Stopfake initiative has raised media literacy, created a propaganda archives and trained various stakeholders, earning appreciative recognition of the public.

It is clear that the Russian Federation has been using all available mechanisms and tools to spread its propaganda worldwide in an attempt to hinder Ukrainian initiatives for freedom and democracy. In contrast, the Russian Federation has shown no effort to address its systematic violations of human rights, despite numerous appeals for this action by the Human Rights Council and other international bodies and agencies.

The deterioration of human rights in Crimea and in Ukraine's eastern regions must urgently be addressed. The World Federation of Ukrainian Women's Organizations calls for justice through a thorough investigation of the imprisonment of bloggers, journalists and publishers of media. Serious steps must be taken to increase awareness of how misinformation is circulating in the national and international media, as well as through academic and public institutions. We urge action to put pressure on the Russian Federation to open up access to Crimea and to put an end to the existing impunity for human rights abuses. We also urge for pressure on the Russian Federation to release Ukrainian civil society activists, in particular Ukrainian filmmaker and writer, Oleh Sentsov, held for expressing disagreement with the RF's annexation of Crimea, who has recently started a hunger strike.

The World Federation of Ukrainian Women's Organizations calls on the international community to support the Ukrainian government, media and human rights organizations in their efforts to restore freedoms of information in Crimea and the Donbas, and to secure the safety of journalists, political dissenters and human rights defenders, in keeping with international standards.

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**Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development**

# Written statement* submitted by Centre Europe - tiers monde, a non-governmental organization in general consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[24 May 2018]

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# Workers' Human Rights Violations By Glencore Around The World[1]

## Introduction

1. The Europe–Third World Centre (CETIM) is alarmed by the increase of human rights violations committed by transnational corporations (TNCs) around the world. This declaration highlights violations committed by Glencore corporation, its subsidiaries and subcontractors in several countries.

2. Glencore PLC is one of the largest mining and commodities trading companies in the world. Headquartered in Switzerland, its shares are publicly traded on stock exchanges. Civil society organisations have long criticized this transnational corporation for its harmful impact on local communities and the environment. Glencore is also facing increased scrutiny by regulators in many countries over its business dealings and corporate governance practices, as well as a global campaign by unions to press the company to respect labour rights.

## Workers' human rights violations

3. Following is a brief report of some of Glencore's recent violations of workers' human rights as reported to IndustriALL Global Union[2] by Glencore's workers and their unions in different countries and sectors.

*Health and safety*

4. The International Covenant on Economic, Social and Cultural Rights (ICESCR) asserts, among other rights, the right of everyone to the enjoyment of healthy and safe conditions of work (art.7). According to first-hand testimony from the unions in the mining sector, Glencore rarely assures its workers these fundamental rights, guaranteed by international human rights law.

5. For instance, in **Bolivia**, Glencore workers who are paid on a production basis complain that safety equipment is substandard. Unions in that country say subcontracted workers in the Illapa and Sinchi Wayra group are not properly trained, a situation that led to two fatal accidents in 2017. Ironically, the company is now putting pressure on the workforce, threatening to close mines if there are any further accidents, as if the workers were responsible for the lack of safety measures.

6. In **Zambia**, a similar dynamic was reported from the workers of the Mopani Copper Mines, a Glencore subsidiary, where the company reportedly threatened to close the mine if there were any fatalities in 2017. Mopani workers claim that medical reports were falsified in order to force sick workers to return to work. In addition, regular silicosis check-ups are not properly conducted, whereas the workers are daily exposed to harmful substances. Last but not least, faulty equipment used by subcontractor companies put workers' lives at risk. Following a large reduction in employment levels, the operations are understaffed, and some employees must routinely work for 24-hour periods underground. Glencore has adopted a so-called "zero tolerance" approach to occupational health and safety. While this might sound good in public reporting, in reality it means a shift of blame and liability from the employer to the victims, with "zero tolerance" resulting in punishing the workers if there is a workplace accident. This translates into de facto suppression of the reporting of accidents through employee fear of disciplinary measures, thereby artificially embellishing safety statistics.

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1 This declaration was drafted in collaboration with IndustriALL Global Union.

2 See http://www.industriall-union.org/

7. In **Colombia**, the Sintracarbón union reported in August 2017 that, in less than one month, there were 13 work accidents at Cerrejón, an open-cast coal mine co-owned by Glencore, BHP Billiton and Anglo American. Sintracarbón has asserted that health and safety at the Calenturitas mine is substandard. Productivity is prioritized over health and safety, safety equipment is not properly maintained, and the joint health and safety committee is not functioning effectively. Disabled workers are given jobs collecting garbage or are isolated with nothing to do.

8. In the **Democratic Republic of Congo**, workers' complaints against Glencore copper and cobalt mining subsidiaries concern inadequate amounts of drinking water in some Glencore operations, with low quality food and lack of a designated eating area, obliging mine workers to eat where they work, sometimes around chemicals. Above all, these complaints highlight the extremely limited and inadequate healthcare provided by Glencore to workers and their families. These workers also complain about unfairly low wages, which in the DRC stand in particular contrast to the extreme profitability of Glencore's operations. Nonetheless, Glencore categorically refuses to enter into negotiations over long standing grievances.

*Precarisation of working conditions*

9. Among Glencore's total workforce, the percentage of contractors, also known as sub-contracted workers, has constantly increased in recent years[3]. In 2017, over 62,000 of its workers, or 43% of its workforce, were contractors, up from 38% the previous year. As demonstrated below, this issue is highly problematic with regard to workers' fundamental rights.

Workforce numbers at year end

| | 2015 | 2016 | 2017 (excluding agriculture) |
|---|---|---|---|
| Employees | 100,614 | 95,958 | 83,679 |
| Contractors | 55,854 | 58,874 | 62,298 |
| Total workforce | 156,468 | 154,832 | 145,977 |

*Source: Glencore Annual Report 2017*

10. This phenomenon is causing a worrying casualisation of the workforce as it leaves workers without an adequate standard of living, equal remuneration for work of equal value, equal opportunity of positions, security of a permanent contract, pension and health insurance and, in practice, the right to form or join trade unions.

11. In **Colombia**, in 2016, Cerrejón was fined two billion pesos (over US$ 650,000) by the Colombian Ministry of Labour for "excessive use of third-party contractors".[4] At Glencore's Prodeco operation in Colombia, Sintracarbón reports that Glencore has used outsourcing as a tool to undermine the union. Contractors who are on one-year fixed contracts are deterred from joining a union, because doing so would put the renewal of their contracts at risk.

12. According to the Mineworkers' Union of Zambia (MUZ), about half of the workers at Glencore's majority-owned Mopani copper operations are casual, and these workers make on average under one-third of the wages of permanent employees. The regular workers are unionised while the casual ones are not, restricting the ability of the latter to speak up about poor working conditions and sub-standard pay. Unions in Zambia also claim that subcontracted workers at Glencore are being employed for longer periods than is permitted by law.

*Breaking labour relations*

3 Contractors are intended as those casual or temporary workers employed by third-parties (suppliers, subcontractors enterprises or other economic entities) which are under the economic control of the main parent company (in this case Glencore).
4 Cited in Vattenfall, "A Human Rights Risk Assessment in Colombia", November 2017, p. 25, https://www.business-humanrights.org/sites/default/files/documents/vattenfall_coal_sorcing_report_2017_0.pdf

13. Far from negotiating in good faith with unions as representatives of the workforce, Glencore is constantly accused of actively trying to break unions. In **Australia**, the company locked out workers at its Oaky North mine for over 230 days for resisting a plan that aimed to replace permanent workers with subcontracted labourers. Australia's state labour arbitrator, the Fair Work Commission, ordered the company to stop the surveillance of workers and to withdraw the ban on wearing union t-shirts. According to testimony given, workers and their families, during social events as well as throughout their daily lives, were followed and filmed by private security guards employed by the company.

14. In **Canada**, workers at the Glencore-managed CEZinc zinc refinery in Quebec went on strike for nine months in 2017 after the company tried to cut costs by weakening their pension scheme. During the strikes, the company reportedly illegally hired strike-breakers in order to deligitimise the workers' grievances.

15. In the **Democratic Republic of Congo**, Glencore workers contend that different treatment and conditions of employment between Glencore's Mutanda and KCC operations constitute a deliberate attempt by the company to divide and weaken trade unions.

16. In **Colombia**, Glencore's wholly-owned subsidiary, Prodeco, refuses to negotiate as a single employer, a situation that leads to inequality of treatment and discrimination among workers. The company continues to operate Carbones La Jagua, Consorcio Minero and Calenturitas as three distinct entities, although the Colombian authorities requested that it integrate the three operations into a single business enterprise. In practice, all three mines are run from the same floor of the same building in Baranquilla, and they share the same top management. However, workers from the three mines are subjected to different terms and conditions and are denied the opportunity to join forces to negotiate with a common employer.

17. Sintracarbón reports that Prodeco has blatantly violated the right to freedom of association at its Calenturitas mine by discriminating against union leaders and members, by interfering with the right of workers to freely choose their union affiliation, and by undermining the collective bargaining process. Management has discriminated against union leaders by changing their shifts or positions, by applying drastic disciplinary measures – including dismissals or multiple suspensions for the same offence – or at times by sending them on paid leave as a means of marginalizing them. The company has granted preferential treatment to representatives of non-unionized workers, including during negotiations and in terms of work opportunities. Further, the company persuaded union members to resign from the union through a combination of threats and incentives. As an additional means of weakening the union, 70 percent of jobs have been outsourced, including in the core functions of the mine.

18. In **Peru**, Glencore's Compañía Minera de Antapaccay has taken advantage of the weakness of Peru's regulatory framework to unfairly prevent technical staff from exercising their right to freedom of association. The company has resorted to arbitrary dismissals, coercion and interference in union affairs since 2013. In 2010, the company reclassified 450 technicians, supervisors and administrative employees as 'employees of confidence', even though the staff in question perform ordinary operational duties and do not report directly to management. In so doing Glencore was taking advantage of a provision in Peru's retrograde labour legislation limiting the right of managerial and 'trusted' staff to organise and bargain collectively as well as making them vulnerable to dismissal for 'subjective' reasons. The ILO has repeatedly warned the government that an overly narrow definition of 'employee of confidence' could unfairly restrict the rights of such workers and has asked the government to review its legislation to ensure that all workers enjoy the right to organize and bargain collectively. In 2013, in response to unfair treatment (particularly in relation to pay and promotion opportunities) as well as their sense of vulnerability as supposed 'employees of confidence', a group of technicians and administrative staff decided to form a union in order to have a voice at work. The labour authorities issued the union registration on 27 November. Two days later, all 35 union members received letters of dismissal, without explanation. Shortly afterwards, management offered to take the fired workers back, under the conditions that they accept to quit the union and sign a letter drafted by the company's lawyers. Five union leaders who refused to

accept the conditions were not reinstated, despite being union leaders protected by 'fuero sindical' (protection from dismissal for union activities).[5]

**Conclusion**

19. IndustriALL Global Union attempted to engage Glencore in meaningful global social dialogue about the company's poor health and safety practices, poor treatment of workers, unresolved labour disputes and anti-trade union practices. Glencore failed to do so. Facing this, workers and unions, including IndustriALL, are trying to reach global agreements on common strategies and jointly agreed labour principles, necessary to the respect and enforcement of the international norms with regard to labour and human rights.

20. Glencore's systematic practice of violating workers' human and labour rights around the world with almost total impunity and without being held accountable highlights the urgent need for an international legally binding instrument allowing the regulation of transnational corporations' activities and their impacts on human rights. As well, this instrument would be an essential tool to guarantee access to justice for the victims and the affected communities.

21. The CETIM urges the host states of Glencore and its subsidiaries to honour their human rights and international labour standards commitments by taking concrete steps to ensure that this company respects, in particular, workers' rights to safety, health, decent income and freedom of peaceful assembly and association.

22. The CETIM also urges the Swiss authorities to comply with its obligation to assure that transnational corporations based within its territory do not violate human rights, in particular while carrying on their activities in other countries and, should violations occur, to grant victims access to justice. We appeal in particular to the government of Switzerland to intervene in order to put an end to Glencore's violations of the human rights of workers, and to ensure that victims obtain justice.

5 Since then, the union has filed an ILO complaint which is available here (CFA Case No. 3069): http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:50002:0::NO::P50002_COMPLAINT_TEXT_ID:3237745. According to a follow-up submission dated August 2017, the union says harassment of the trade union leaders has continued.

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**Human rights situations that require the Council's attention**

# Written statement* submitted by Christian Solidarity Worldwide, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[25 May 2018]

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# Freedom of Religion or Belief in Eritrea

1. CSW is a human rights organisation specialising in the right to freedom of religion or belief (FoRB). CSW has been monitoring and researching developments in Eritrea since 2002, including annual interviews with refugees and their community leaders in four nations. This submission draws on detailed witness testimonies collated between 2003 and 2016.

2. CSW welcomes the continued efforts of the UN Special Rapporteur on the human rights situation in Eritrea, and urges the Council to renew its support for this mandate.

**Freedom of Religion or Belief**

3. Perceived threats to national unity have meant that the extensive rights enshrined within the unimplemented national constitution of Eritrea, which was drafted and ratified by the National Assembly in 1997, remain disregarded. Instead, the government has embarked on a course of repression and currently stands accused of atrocity crimes, including the crime of persecution, since independence.

4. The government has a long-held ideological antipathy towards all religion, seemingly viewing faith as divisive. Objective 7 of the 1977 National Democratic Program of the Eritrean People's Liberation Front undertook to 'strictly oppose all the imperialist-created new counter-revolutionary faiths, such as Jehovah's Witnesses, Pentecostal, Baha'i, etc,' and to 'legally punish' anyone attempting to use religion to sow discord or undermine the progress of the Eritrean people during or after the conclusion of the armed conflict.1

5. Jehovah's Witnesses were the first religious community targeted. Doctrinal stipulations meant they did not vote in the 1993 independence referendum, neither do they participate in military aspects of national service. In October 1994, a directive from President Isaias Afewerki effectively deprived Jehovah's Witnesses of their civil, political, social, economic and cultural rights, including being denied official identity cards necessary for the registration of births, deaths and marriages, purchasing property, gaining passports and internal and external travel permits, and commercial licenses. In addition, Jehovah's Witnesses can no longer access government employment, accommodation, schools or hospital services.

6. A government campaign of arrests targeting selected religious communities has been ongoing since 2002, when it effectively outlawed all practices not affiliated with the Catholic, Evangelical Lutheran and Orthodox Christian denominations or Sunni Islam. Other religious groups face insurmountable challenges in gaining registration and therefore recognition. If found practicing their faith, adherents of non-recognised groups are arrested, detained without charge or trial, and can face torture or even death.

7. In a series of machinations between 2006 and 2007 and in violation of canonical law the patriarch of the Eritrean Orthodox Church, Abune Antonios, was relieved of all administrative duties, removed from office and placed under incommunicado house arrest, after objecting to increasing governmental interference in ecclesiastical affairs. He was replaced by a government-compliant bishop, who died in 2015 and has not replaced. Patriarch Antonios was allowed to attend, but not address a church service on 16 July 2017, then was transferred to a new location of house arrest.

8. Priests seen as sympathetic to the legitimate patriarch continue to be detained, harassed, forced out of the Church or conscripted. A 2011 report indicated that around 1,700 Orthodox clergy of all ranks were forced out

1 Roy Pateman (1998), *Eritrea: Even the Stones are Burning*

of the church; 1,350 were forcibly conscripted, 23 were detained, 14 were banned from entering any church compound.

**Cases of Arbitrary Detention**

9. Arbitrary detention is widely practiced; tens of thousands of Eritreans continue to be detained without charge or trial in life threatening conditions in over 300 sites across the country where torture is routinely practiced. Prisoners are held in inhumane conditions, including poorly ventilated metal shipping containers or underground cells, and in the open air in desert areas surrounded by barbed wire or thorns.

10. Former prisoners report being forced to undertake extreme physical exercise, to stand for hours in the midday sun, and to endure beatings administered with electric prods, whips or pipes. Reports indicate that in every prison, beatings are administered routinely, systematically, frequently, and even casually on all prisoners, regardless of creed or lack thereof.

11. Some detainees are released when privations and severe mistreatment have rendered them close to death. Reverend Tesfatsion Hagos, the leader of Rhema Church, was detained in May 2004. After a month in Asmara's 4th Police Station, where he was able to receive food and clothing, he was held incommunicado for a year and seven months in Karchele Security Prison, where his hands were chained. He was deprived of blood pressure medication for two years, suffered regular brutal beatings, and was fed very little. Beatings were inflicted to cause maximum internal damage but leave no visible scars, causing him to lose the use of a kidney. By 2010 his health had deteriorated significantly, and he was finally taken for medical treatment. The doctor told the authorities to take him away as he would die within three days. That was when he was released.

12. During May 2017, 122 Christians from non-sanctioned churches were detained: forty-five were arrested in Adi Quala, including entire families, the elderly and a disabled woman. The arrests left 23 children without their parents. Fifteen people were rounded up in Gindae, while in Asmara, 45 people were arrested during one raid and 17 during another.

13. Among those detained was Fikadu Debesay, a mother of four. Fikadu, her husband and their 18 year old son were arrested at their home in Adi Quala, leaving the three younger children – all of them minors – alone. While her son was taken to a labour camp, Fikadu and her husband were eventually held in Metkel Abiet, a purpose-built desert camp situated between the towns of Gahtelai and Shieb in the Northern Red Sea Region, where conditions were harsh. They were mistreated, deprived of adequate food, water, medical treatment and shelter, and interrogated daily about church affairs. Fikadu's health deteriorated in the appalling conditions. She died in August on her way to hospital after an ambulance had been called belatedly. She was buried on 10 August 2017 and her body reportedly showed signs of mistreatment. Her son and husband were not informed of her death, and only learned of it when they were released and returned home months later.

14. Two elderly Jehovah's Witnesses died in Mai Serwa Prison near Asmara, after spending nearly a decade in detention. Both were detained without trial or charge in 2008, after being arrested at their homes. They were transferred to Mai Serwa from the notorious Meitir Camp, where they experienced cruel, inhumane and degrading treatment. Neither man recovered fully from this: 76 year-old Mr Tesfamariam died suddenly on 3 January 2018, and is believed to have suffered a stroke, while 77 year-old Mr Mekonen died on 6 March, reportedly due to kidney failure. They both leave behind wives and children.

15. Hajji Musa Mohammed Nur, the nonagenarian Honorary President of Al Diaa Islamic School in Asmara, died in detention at Asmara's 5th Police Station on Saturday 3 March 2018. He had been held there since his arrest in 2017. Haji Musa had opposed the government's attempted expropriation of the Al Diaa private Islamic school, and resisted pressure for female students to stop wearing the hijab. On 31 October 2017, a rare protest against his arrest and government-imposed restrictions broke out in Asmara. It was dispersed by truncheon-

wielding members of the security services firing live ammunition. Following his burial hundreds were arrested, mainly males, some as young as 13.

16. In recent weeks two long-term prisoners were confirmed released. Pastor Oqbamichael Teklehaimanot, senior pastor of the Kale Hiwot Church, was among 67 people arrested on 9 January 2005 at a wedding ceremony. Most were gradually released; however, Pastor Oqbamichael was one of five who refused to sign papers renouncing their faith. He was transferred to Sawa for "military punishment", and suffered ten months in solitary confinement and severe physical and emotional mistreatment that caused him to suffer a mental breakdown. He was later released but was re-arrested on 1 October 2007. Reports indicate the pastor, now in his seventies, is in poor physical condition. Orthodox scholar *Merigeta* Yitbarek Berhe, who was detained without charge in 2006, has also been released.

**Recommendations to the International Community**

17. Urge Eritrea to implement its constitution, to fully enact all rights enshrined within it, and to ensure full enjoyment of freedom of religion or belief for all citizens in accordance with international statutes it has signed, including the African Charter on Human and Peoples Rights (ACHPR), and the International Covenant on Civil and Political Rights (ICCPR)

18. Urge Eritrea to end enforced disappearance, arbitrary arrest and indefinite detention without charge or trial, and bring long-term detainees before recognised courts of law in the presence of international observers, or release them. Eritrea must also be urged to adhere to the Guidelines on the Conditions of Arrest, Police Custody and Pre-Trial Detention in Africa

19. Urge Eritrea to extend invitations to relevant UN Special Procedures, enabling them to conduct unhindered human rights investigations

20. Support the renewal of the mandate of the UN Special Rapporteur on the situation of human rights in Eritrea.

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# Written statement* submitted by the Commonwealth Human Rights Initiative, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

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Please recycle

# Urgent call for action- Media Freedom, Expression, Assembly and Association in Cameroon

**Overview**

At the 38th Session of the United Nations Human Rights Council (HRC), the Commonwealth Human Rights Initiative (CHRI) wishes to raise serious concerns over the continued deterioration of human right of freedom of assembly and association in Cameroon and lays special emphasis on what it regards as visible and deliberate harm to freedom of media, expression, assembly and association in the country.

Cameroon has witnessed severe politicization of rights in recent years. With the unfolding 'Anglophone crisis' in parts of the country, protests and demonstrations have been met with use of violence from security forces, causing numerous deaths and losses. The government has used its power to suspend registered assembly of professionals and has used provisions of the anti-terrorism law against human rights defenders, other activists and critics. The criminal justice system has been repeatedly used to harass and silence the political opposition, detain and prosecute journalists, and intimidate human rights organisations. Marginalised groups including members of the LGBTI community also have concerns about safe assembly in public spaces. Reprisals against HRDs and civil society organisations under the premise of national security, and against human rights defenders promoting democracy and electoral rights have increased, especially in context of the Anglophone crises. We regard this as in violation of the Constitution of Cameroon, Universal Declaration of Human Rights (UDHR), and International Covenant on Civil and Political Rights (ICCPR).

Despite having accepted 125 out of the 177 recommendations received during its last UPR, Cameroon rejected recommendations pertaining to the respect of freedom of expression and assembly, including to "ensure a favourable climate for the activities of journalists, human rights defenders and other actors of civil society".1 This statement highlights our deep concerns with regard to the freedoms of assembly and association in Cameroon.

**Anglophone Crisis**

From the end of 2016, Cameroon has witnessed prolonged crisis with the Anglophone minority in the north-west and south-west regions. Lawyers, students, teachers and civil society groups belonging to the Anglophone community have protested against perceived marginalization and discrimination. Security forces have brutally dispersed demonstrators leading to deaths, injuries and unlawful arrests.

Freedom of assembly and association of the Anglophone community have been severely violated. Peaceful protesting lawyers have been illegally arrested and detained without due process. Further, authorities have suspended the functioning of lawyers' associations.

We note that:

- In **October 2016,** at least 20 people were killed when security forces responded to demonstrations in the Anglophone regions with live bullets and tear gas. At least 500 people were arrested in response to the protests.
- In **November 2016**, protests in Bamenda, Buea and Limbe regions were suppressed by a sharp crackdown with strong representation from the police, gendarme and forces from the Special Intervention Unit BIR. Lawyers were picked up from hotels and cars, intimidated and attacked and in some cases, were arrested and detained.2
- Government representatives of the Northwest and Southwest regions banned the **Northwest Lawyers' Association (NOWELA), Meme Lawyers Association (MELA) and suspended activities of Fako Lawyers'.**
- In **January 2017**, the government arrested two civil society leaders, **Barrister Nkongho Felix Agbor-Balla** and **Dr. Fontem Aforteka'a Neba** and banned their organisation, **Cameroon Anglophone Civil Society Consortium** (CACSC). They were released in August 2017 on orders of the central government.
- **In January 2017**, the **Southern Cameroons National Council (SCNC)**, an Anglophone party, was banned. The minister of territorial administration and decentralization stated that the purpose and activities of these

1https://www.upr-info.org/sites/default/files/document/cameroon/session_30_-_may_2018/fld_upr30_cmr_e_main.pdf

2 http://contranocendi.org/index.php/en/news/88-anglophone-cameroon-common-law-lawyers-protest/.

organizations **were contrary to the constitution and could jeopardize the security of the state, territorial integrity, national unity, and integration.3**

- In October 2017, a military court convicted **Aboubakar Siddiki**, a critic of the President and the head of the small Cameroon's Patriotic Salvation Movement, of attempting to incite a revolution and sentenced him to 25 years in prison, prompting condemnation from Amnesty International and others.

**Restrictive Legislative Framework**

- The Law No. 90/055 (of 19 December 1990) on public meetings and demonstrations in Cameroon provides a procedure of seven days **prior notification for demonstrations**. This law has been applied in a manner to effectively require meetings to be authorised by the government officials. Several meetings, including human rights-related press conferences, have been suspended by authorities on the grounds of threat to public order. The freedom of assembly for civil society in Cameroon is twisted as it has become increasingly difficult to obtain approval to organise public gatherings, especially after the December 2014 anti-terrorism law was adopted.
- Cameroon passed an **Anti-terrorism law**4 in 2014 which allows for Cameroonian citizens to be charged in military courts and face the death penalty for acts of terrorism. The definition of terrorism contained within the law includes acts as "disturbing the normal functioning of the public services" and the provision of essential services to the population, and creating a situation of crisis within the population.5 We regard the above as a serious threat to freedom of information and freedom of press especially as it has been used to target journalists.

**Human Rights Defenders (HRDs)**

HRDs in Cameroon are at risk of attacks and face reprisals in the form of arrests, detentions and criminal trials. Despite previous calls for action on the issue, the government has failed to prevent attacks and investigate such cases. We draw the Council's attention and that of the Cameroon Government to the following specific cases:

- Members of the organisation **Dynamique Citoyenne** have been continuously harassed through the judicial process since 2015. Mr. Jean Marc Bikoko, Ms. Bénédicte Jessie Bikoko, Ms. Agnès Adélaïde Metougou, Mr. Yves Léonardo Ndjalla Epangue, Mr. Sévérin Le Juste Bikoko, and Mr. François Fogno Fotso are facing charges of "illegal demonstration and rebellion" after taking part in a peaceful meeting on democracy and electoral rights on the international day of democracy. They remained in administrative detention for 15 days under the 2014 anti-terrorism law.6 After eighteen hearings, their trial has been postponed to June 27, 2018.7
- **Nasako Besingi**, an environmental rights defender was arbitrarily arrested in September 2017. He had been outspoken in his condemnation of the police violence used against protesters in the context of the Anglophone demonstrations. He has previously been charged with conducting unlawful assemblies, and organising and inciting protests, on account of advocacy against plantation on local land.8
- In May 2017, the NGO **Nouveaux Droits de l'Homme - Cameroun** (New Human Rights – Cameroon) was prevented from organising an activity to discuss the human rights situation in the country. In a written decision dated 23 May, the prefect of the Yaoundé 1 district held that "because of the threat of disruption of public order, the conference entitled 'Human rights and the fight against terrorism in Cameroon', scheduled from 2 pm to 6 pm, is prohibited from taking place".

**Impact on related rights and services**

- The African Declaration on Internet Rights and Freedoms characterizes internet shutdowns as a direct interference with the right to freedom of assembly and association.9 In 2017, the government restricted internet services in the Northwest and Southwest regions for more than 150 days, in response to Anglophone protests

3 https://www.state.gov/documents/organization/277223.pdf
4 http://www.assnat.cm/gestionLoisLegislatures/libraries/files_upload/uploads/Lois/2014-028fr.pdf
5 https://www.upr-info.org/sites/default/files/document/cameroon/session_30_-_may_2018/fld_upr30_cmr_e_main.pdf
6 https://www.upr-info.org/sites/default/files/document/cameroon/session_30_-_may_2018/fld_upr30_cmr_e_main.pdf
7 https://www.fidh.org/IMG/pdf/achpr_110418_written_intervention_obs.pdf
8 https://www.frontlinedefenders.org/en/case/case-history-nasako-besingi
9 http://africaninternetrights.org/articles/

against the dominance of French language in the country.10 Such shutdowns threaten freedom of expression, access to information and impact socio-economic growth.11

- By targeting Anglophone communities, the shutdowns in Cameroon also violates the government's responsibility to respect, protect, and fulfill the human rights of all of its citizens without discrimination of any kind, including on the basis of language, political opinion, and similar characteristics. When announcing that the internet shutdown had been lifted on April 20, President Biya neither justified nor apologized for the disruption; in fact, he threatened to interfere again. This shutdown represents an impermissible interference with freedom of expression, and should not be repeated.12

**Recommendations**

- Review and amend the 2014 anti-terrorism law that it is not used to restrict freedom of expression, assembly and association;
- Fully respect, protect and fulfil the rights to freedom of expression, association and of assembly, including by lifting restrictions on mobile and internet services unless provided for by law, and complying with international human rights law and standards on the use of force;
- Ensure the rights to freedom of expression, association and assembly for all, including journalists, human rights defenders and opposition party members;
- Respect the rights of peaceful assembly, and freedoms of association and expression, including when exercised online, and afford all of those detained all the rights enshrined in Cameroon's constitution and under international law;
- Lift unnecessary restrictions on the freedom of assembly, investigate the alleged excessive use of force in dispersing demonstrations and ensure arrested protestors receive fair trials;
- Ensure respect for the rights to freedom of expression, association and assembly for all, including journalists, human rights defenders, opposition party members, and take measures to create an enabling environment for the exercise of these rights ahead of the 2018 presidential elections.

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10 https://qz.com/1138529/cameroons-anglophone-ambazonia-region-has-had-internet-restriction-for-150-days-in-2017/

11 https://www.aljazeera.com/news/2018/01/cameroon-internet-shutdowns-cost-anglophones-millions-180123202824701.html

12 https://www.upr-info.org/sites/default/files/document/cameroon/session_30_-_may_2018/js7_upr30_cmr_e_main.pdf

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**Human Rights Council**
**Thirty-eighth session**
18 June-6 July 2018
Agenda item 3
**Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development**

# Written statement* submitted by the Asian Legal Resource Centre, a non-governmental organization in general consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[25 May 2018]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

GE.18-09486(E)
*1809486*

Please recycle

# INDONESIA: Extreme poverty in Asmat regency has caused measles and malnutrition

The Asian Legal Resource Centre (ALRC) wishes to inform the UN Human Rights Council (UNHRC) about the extreme poverty and health crisis faced by Asmat regency in Papua, Indonesia. Approximately 70 Papuan children died from measles and malnutrition in 2018. Extreme poverty and a lack of public infrastructure in the province, particularly in Asmat regency, has caused serious health problems and malnutrition, direly affecting children. The Indonesian government has failed in protecting its citizens' right to health and life.

Papua has now been a part of the Republic of Indonesia for 55 years (1963 - 2018), as confirmed by the United Nations General Assembly Resolution No. 2504, 21 November 1969. Despite all this time, today Papua and West Papua provinces remain Indonesia's poorest provinces. According to the Central Statistics Agency (*BPS*), as of 2016, Papua and West Papua provinces had the highest number of poor people in Indonesia: Papua province with 28.4% and West Papua province with 24.88%. Then followed by East Nusa Tenggara province (NTT) with 22.01%, Moluccas province with 19.26%, Gorontalo province with 17.63%, Bengkulu province with 17.03%, and Aceh province with 16.43%.

After President Joko Widodo's inauguration in October 2014, he declared that his government will focus on the development of public infrastructure such as roads, highways, railways. Although one of the priority infrastructure developments is in Papua and West Papua provinces, extreme poverty and isolated areas remain a serious problem, and has brought negative impact to indigenous Papuans who live in the district.

In Asmat regency, the measles and malnutrition epidemic has affected approximately 11 districts: Swator, Aswi, Akat, Fayit, Pulau Tiga, Kolf Branza, Jetsy, Pantai Kasuari, Safan, Unirsarau, and Siret. Being the most remote areas of Asmat regency, victims in these districts faced serious difficulties in obtaining access to medical facilities, resulting in the death of 70 children.

In Agats, the capital regency of Asmat, the Agats General Hospital (RSUD) did not have enough facility or capacity to tackle all the patients infected of measles and malnutrition. In fact, the Agats hospital is a category D hospital, which means it needs empowering. Moreover, the lack of space in the hospital meant that many patients were treated in the nearest church buildings.

This epidemic clearly shows how Papua has been left behind in terms of eradication of extreme poverty, development of health facilities and development of public infrastructure. In other provinces, such as Jakarta, Central and West Java or other islands such as Sumatera and Bali, there are numerous public and private hospitals of category B and A, easy to access. Papua mostly has public hospitals of type D, especially in remote areas. There is a category A hospital in Jayapura city, the capital of Papua, but it is quite far from Agats, and to reach Jayapura from Agats is difficult due to the lack of infrastructure.

The epidemic also revealed how neither the central government of Indonesia in Jakarta, nor the local government in Papua province and Asmat regency, have been able to develop an early warning system to prevent measles and malnutrition. The government, in particular President Joko Widodo, must change the approach in dealing with the problem. While the President's presence in Asmat would have been good in empowering the local government to tackle the problem, his presence alone is not enough. It is also necessary to develop appropriate plans and programs in addressing poverty and health issues, which can run without the President's presence. This is linked to empowering the local government, which is the institution representing the State to ensure the fulfilment and protection of citizens' rights without exception and undue delay.

Further, as a state party to the International Covenant on Economic, Social and Cultural Rights, Indonesia is obligated to ensure its citizens' rights to be free from hunger; to address the prevention, treatment and control of epidemic, endemic, occupational and other diseases; and to create conditions that would assure medical attention to all. Similarly, national laws such as Law No. 36 of 2009 guarantee the right to equal health access for all citizens. The case of measles and malnutrition, which occurred in Asmat regency, is a clear example that the government of Indonesia has failed to

eradicate extreme poverty; the government program on the massive infrastructure development has yet significantly contribute for the better life of indigenous Papuans, in particular who live in remote area such as Asmat regency.

Considering above-mentioned condition of extreme poverty in Asmat regency Papua province, we respectfully request the Human Rights Council urge the Government to:

1. Boost development of health access in Papua. The assistance from the central government should not merely be limited to eradicating disease in Asmat regency, but should ensure that remote areas in Papua receive priority in development of health access, facilities and infrastructure.
2. Ensure the government branches in particular the Minister of Health and the Coordinator Minister of Welfare should take initiatives to monitor, evaluate and ensure the implementation of such policies. Local government should also open access for NGOs and media to monitor the recovery and development in remote areas.
3. Ensure that all children, including pregnant mothers in Papua, particularly in Asmat regency, are given enough nutrition, food, and vaccines to prevent disease.
4. Officially invite and cooperate with the UN Special Rapporteur on Extreme Poverty and Human Rights.

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# Written statement* submitted by the Asian Legal Resource Centre, a non-governmental organization in general consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

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GE.18-09521(E)
*1809521*

Please recycle

# INDONESIA: Corruption and bribery threatening judicial independence

The Asian Legal Resource Centre (ALRC) wishes to inform the UN Human Rights Council (UNHRC) about the lack of accountability and independence of Indonesia's judges and lawyers. One of the most serious problems threatening the Indonesian judiciary is corruption, involving judges, court clerks and lawyers. Not only does such corruption have a negative impact on the accountability of judges and lawyers, but it also seriously undermines fair trial and due process.

So far, since Justice Hatta Ali became the chairman of the Supreme Court in March 2012, in total 25 judges and court clerks have been found involved in corruption and bribery cases. One prominent case occurred in February 2018, when the Chief Justice Sudiwardono of Manado High Court, North Sulawesi Province, was arrested by the Corruption Eradication Commission (*Komisi Pemberantasan Korupsi* - KPK) due to his involvement in a bribery case, to mitigate the verdict of a defendant, Mrs. Marlina Moha Siahaan, regent of Bolaang Mongondow, North Sulawesi Province. The KPK arrested the Chief Justice *in Jakarta along with Mr. Aditya Moha, a Parliament member and son of the defendant, who provided the money.* The KPK seized money amounting to 101,000 Singaporean Dollar and IDR 1 billion. The money was divided into three parts, one of which was found in a car.

Subsequently, on 12 March 2018, the Corruption Eradication Commission arrested several officials of the Tangerang District Court (*Pengadilan Negeri Tangerang*) on Monday night for alleged bribery in a civil case. The arrested officials were Justice Wahyu Widya Nurfitri and court clerk Tuti Atikah. Moreover, the KPK also arrested two lawyers who bribed the judge, namely Attorney Agus Wiratno and Attorney HM Saipuddin. The two lawyers bribed the panel judges in order to influence the verdict with IDR 30,000,000, as before the trial, advocate Agus Wiratno has been informed by the clerk Tuti Atika that the judge's decision was to reject the lawsuit.

In another case, Mr. Fredrich Yunadi, a former attorney of graft defendant Setya Novanto, spokesperson/chairperson of the House of Representatives (DPR RI), was finally prosecuted at the Anti-Corruption Court. The KPK prosecutors indicted Yunadi for obstructing the anti-graft body's investigation against his former client in a graft case related to the e-ID card procurement project. Yunadi has been accused of manipulation to enable Setya Novanto to be admitted to Medika Permata Hijau Hospital in order to avoid the KPK's investigation. The lawyer reportedly asked doctors to change the diagnosis to road accident, although such an accident had yet to occur. The lawyer also managed to reserve all VIP rooms at the hospital under Setya's name. In addition, the KPK has also named Doctor Bimanesh from Medika Permata Hijau Hospital as a suspect in the case, who will be tried separately.

One of the main factors causing widespread corruption within Indonesia's judicial system is the weak external oversight over the judges and judicial apparatus, such as court clerks. Although Indonesia has had an Independent Judicial Commission (*Komisi Yudisial* - KY) for the last 15 years, its mandate and authority has weakened due to amendments of the law. The Commission does not have enough authority to investigate and ensure punishment to the judges who breach the law; the Commission can merely issue recommendations to the Supreme Court. Moreover, these recommendations are usually ignored or implemented with great delay by the Court. There are strong allegations that Justice Hatta Ali, the current Chairperson of the Indonesian Supreme Court, is reluctant to seriously reform the judicial system. Many public voices, including that of Justice Gayus Lumbuun, a Supreme Court judge, have therefore called for Justice Ali's resignation.

Indonesia's Supreme Court and Judicial Commission must take a proactive approach in dealing with the widespread problem of judicial corruption. The Supreme Court must conduct transparent and credible internal audits to ensure that judges, court clerks and other court officials will not easily get involved in cases of bribery and corruption. High standards of punishment and sanction must be seriously developed and implemented to strengthen judicial reform. Division of labour between the Supreme Court and the Judicial Commission must be made clearer, and all recommendations submitted by the Judicial Commission to the Supreme Court must be seriously examined and followed up. In 2017 for instance, the Judicial Commission recommended the punishment of 58 judges, but the Supreme Court has yet to seriously follow up.

In order to ensure that the problems faced by the Indonesian judicial system are seriously addressed, the Council must urge the Government of Indonesia to:

1. Fully support the Commission Eradication Corruption (KPK) to eradicate corruption and bribery in all judicial stages in Indonesia;
2. Strengthen the mandate and the role of the Judicial Commission to monitor judges as well as involve in the evaluation and examination of its recommendation report submitted to the Supreme Court;
3. Seriously evaluate the Chief Justice of the Supreme Court and develop a better system for recruiting judges and court clerks;
4. Strengthen transparency and accountability of the ethic mechanism within the Supreme Court in dealing with the violation of the code of conduct and violation of the law committed by judges;
5. The Indonesian Bar Association (*Perhimpunan Advocate Indonesia* – PERADI and *Kongres Advokat Indonesia* - KAI) must seriously develop better education and training for lawyers and also develop better ethic mechanism to strengthen the accountability of lawyers; and
6. Invite and cooperate with the Special Rapporteur on the Independence of Judges and Lawyers.

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# Written statement* submitted by the Asian Legal Resource Centre, a non-governmental organization in general consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

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*1809522*

Please recycle

# INDONESIA: Summary executions recurring while perpetrators enjoy impunity

The Asian Legal Resource Centre (ALRC) wishes to inform the UN Human Rights Council (UNHRC) regarding the situation of extrajudicial executions (summary executions) in Indonesia.

Despite being a state party to key international human rights treaties such as the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), and the International *Convention against Torture* and Other Cruel, Inhuman or Degrading Treatment or Punishment, Indonesia has yet to fully recognize the right to life and protection for all people from summary execution.

The right to life is also enshrined in the Indonesian Constitution (UUD 1945) and Law No. 39 of 1999 on Human Rights. The enforcement of such laws however, is Indonesia's failing. In fact, law enforcement agencies and security forces in Indonesia are themselves guilty of summary executions. In the case of Mr. La Gode for instance, a resident of Taliabu Island, North Moluccas province, police officers arrested him for stealing cassava. Subsequently, Gode was transferred to the military post of Satgas 732/Banua for further examination. He was tortured in detention, and subsequently died from his injuries, particularly to his back and lateral parts of his body.

The ALRC's sister organization, the Asian Human Rights Commission (AHRC) also documented the case of Gerri Goo, an indigenous Papuan who died after being shot by law enforcement agencies in Moanemani, Degiyai regency. Gerri was shot during a joint sweeping operation by the Moanemani police officers and the police mobile brigade (Brimob). Geri was hospitalized for 33 days, and he finally passed away on 9 May 2018.

In the past, particular under the government of Suharto, summary executions occurred massively, and remains unpunished until present. Thousands, perhaps even one million people have been victims of summary execution during the 1965-1966 massacre, the mysterious shooting (*Penembakan Misterius* - Petrus) of 1981-1983, the Tanjung Priok case of 1984, the Talangsari case of 1989, the military operation and emergency period in Aceh from 1989-1998 and 2003, the 1998 May tragedy, the student shooting in Trisakti and Semanggi in 1998-1999, the case of Wasior and Wamena Papua 2001 and 2003, and various cases occurring in Papua, such as the cases of Puncak Jaya 1977-1978, as well as the Abepura case of 2000. Despite the Abepura case being prosecuted in the Makassar district court in 2005, the court failed to find evidence and finally released all the perpetrators. The government has also failed to address various recent cases of summary executions, such as the Paniai case, and the brutal attack and murder of Vijay Pauspaus in Sanggeng Manokwari Barat.

The recurrence of extrajudicial executions in Indonesia is largely due to the impunity enjoyed by the offenders, especially if they are part of the police or military institutions. For instance in the death of La Gode, the Sula Police Station prefers to internally discipline the police officers who had illegally arrested and transferred La Gode to the Military Post of Task Force (Satgas) 732/Buana. The internal ethic mechanism conducted on 31 March 2018 at the Sula Police Station ruled that:

1. Police Chief Brigadier Zaenuddin Ahmad was to get 21 days detention, one year suspension of rank, promotion and educational training.
2. Police Brigadier Harifin Idu was to get 21 days detention, two years suspension of rank, promotion, annulment of his current position in Police Administration and one year suspension of his regular salary.
3. Police Brigadier Mardin was to be punished with 21 days detention with six months suspension of educational training.

Extrajudicial execution committed by the police is also caused due to the lack of commitment by the government to implement internal police regulations on human rights. The Internal Police Regulation No. 8 of 2009 on the Implementation of Human Rights Principles and Standards in the Discharge of Duties of the Indonesian National

Police, and the Standard Operational Procedures like the SOP No 1/X/ 2010 on Countermeasures on Anarchy, and SOP No 14 of 2012 on the Investigation Management of Crimes have all remained on paper thus far.

In view of the above situation, the ALRC requests the UN Human Rights Council to undertake studies to assess the root causes of extrajudicial executions in Indonesia. The Council should not merely work with the Indonesian government, but should also work and support the Indonesian civil society at large in dealing with recurrence and massive extrajudicial executions in Indonesia.

The Council should put pressures on the government of Indonesia so that the State officially invites and cooperates with the UN Special Rapporteur on Extra-judicial, Summary, or Arbitrary Executions.

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**Human rights situations that require the Council's attention**

# Written statement* submitted by Christian Solidarity Worldwide, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

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*1809528*

Please recycle

# Freedom of religion or belief (FoRB) in Cuba and Sudan

1. CSW wishes to bring the Council's attention to cases of discrimination on the basis of FoRB in Sudan and Cuba, with specific focus on government interference in religious affairs, and the harassment and arbitrary detention of church leaders.

2. In addition, CSW welcomes the continued efforts of the UN Independent Expert on human rights in Sudan and urges the Council to support and strengthen the mandate. Technical assistance and capacity building will only be effective if implemented alongside consideration for the human rights situation in any given country.

**Interference in religious affairs**

3. FoRB violations in Cuba have increased significantly in number and severity, predominantly perpetrated by the Central Committee of the Cuban Communist Party's Office of Religious Affairs (ORA), which oversees all religious activity on the island. Recent developments in Cuba's relations with the US and the EU do not appear to have affected the situation.

4. Most religious groups that existed prior to the 1959 Cuban Revolution remain registered and legally recognised by the government, including the Roman Catholic Church and large Protestant denominations such as the Presbyterians, Episcopalians, Methodists, Assemblies of God and most Baptists. However, some groups, such as the Jehovah's Witnesses and Berean Baptists, which had their registration arbitrarily rescinded in the 1970s, have not been able to re-register, while groups such as the Afro-Cuban Asociación Yorubas Libres have not registered in order to remain independent of government influence or control. Other groups which were not present prior to 1959 but have a growing presence on the island have been refused the right to register, most notably the Protestant Apostolic Movement.

5. Restrictive regulations targeting unregistered house churches in Cuba were put in place in 2006. The regulations have been implemented sporadically and to varying degrees in different parts of the country, but their existence puts house churches and their leaders in a permanently vulnerable position. In January 2015 Legal Decree 322, a piece of legislation regulating private properties and enforcing zoning laws, came into effect and has since been used by government officials to seize church property. Churches from the Eastern and Western Baptists Conventions, the Methodist Church of Cuba and the Evangelical League, among others, have all been affected.

6. Similarly, in Sudan the Ministry for Guidance and Endowments, which oversees religious affairs, announced in 2013 that no new church licences would be issued, allegedly due to a lack of worshipers and an increase in abandoned buildings. Local governments (particularly in Khartoum and Omdurman) have continued confiscating and demolishing church property, ostensibly to make way for development projects.

7. In 2016, the Ministry of Guidance and Religious Endowments recognised a newly elected but illegally convened committee of the Sudan Evangelical Presbyterian Church (SEPC). The committee has since sold church property to private investors. When church members protested they were arrested by the National Intelligence and Security Services (NISS).

8. In May 2017, Younan Abdulla, a 28 year-old SEPC elder was murdered when members of the illegally-convened committee attacked peaceful protesters demonstrating against the sale of church land.

**Church Demolitions**

9. Prior to South Sudan's secession in 2011, the Soba Aradi District of Khartoum State had 13 churches representing diverse denominations. On 7 May 2017, authorities demolished the last remaining church in the Soba Aradi district of Khartoum State, which had also been listed in the June 2016 order. Since 2011, 12 churches have been demolished in the district, ostensibly under a government planning and re-development programme.

10. On 11 February 2018, a SEPC church in El Haj Yousif, Khartoum North, was demolished by Sudanese security agents. Witnesses reported that at least three police trucks arrived at the church without notice moments after the service had ended, and security personnel proceeded to clear and confiscate property, including chairs, bibles and musical instruments, before demolishing the church. The church, which has used the building as a place of worship since 1989, was one of 25 earmarked for demolition in an official order signed in June 2016.

11. These incidents have occurred despite provisions in Article 6 of Sudan's 2005 Interim Constitution listing sundry rights, not only for individuals, but also for religious communities, including the right to own property. The lasting effect of these policies is that the number of legally recognised Christian places of worship is being steadily reduced in violation of the constitutional right to establish and maintain places of worship.

12. In Cuba, approximately 2,000 churches linked to the Assemblies of God (AoG) denomination were declared illegal under Decree 322 in 2015. The Cuban government initiated a process of expropriation of 1400 of them, and designated 100 in three provinces for demolition. The situation remained unchanged until May 2017, when government officials gave verbal assurances to the AoG leadership they would no longer proceed with the confiscation of the churches, and presented them with paperwork rescinding the demolition order for one church which they had already attempted to destroy.

13. In 2016, four large churches linked to the Apostolic Movement in Cuba were destroyed in large-scale operations involving the blocking of streets, the deployment of police and state security agents, and the arbitrary detention of the pastors and owners of the properties for the duration of the demolitions. Church leaders also reported that property belonging to the church, such as benches, musical instruments and audio equipment, was confiscated.

**Harassment and arbitrary detention of church leaders**

14. Religious leaders in both Sudan and Cuba report being regularly subjected to close surveillance and harassment by authorities. Examples include arbitrary fines, interrogation, home visits by officials, and restrictions on travel and the freedom to carry out pastoral duties.

15. In August 2016, the Ministry of Guidance and Religious Endowments in Sudan appointed an unelected committee to manage the Sudan Church of Christ's (SCOC's) affairs. Nine church leaders were arrested and accused of trespass for refusing to hand over the church's headquarters to the unelected committee.

16. Individuals are regularly detained, sometimes incommunicado, for prolonged periods without trial. Reverend Hassan Abduraheem and Darfuri activist Abdulmonem Abdumawla were held for over a year before being unjustly convicted and sentenced in January 2017 to 12 years in prison for 'inciting hatred between sects' and 'propagating false news'. The two were released on 11 May 2017, after receiving a presidential pardon. Their case is emblematic of the government policy of targeting religious and ethnic minorities on spurious grounds,

while pending criminal proceedings are used by the security apparatus to intimidate religious leaders and church members.

17. In Cuba, the government has long employed the strategy of targeting family members of religious leaders and activists as a means of placing additional pressure on them. In 2017, the two adult children of Leonardo Rodriguez Alonso, a FoRB human rights defender, were arbitrarily fired from their positions at two universities. In her dismissal, Mr Rodriguez Alonso's daughter was told that she was being fired because she was a poor moral influence on students.

18. In February 2017, Pastor Ramon Rigal and his wife were arrested following their attempt to home school their children for religious reasons. Their sentences were later reduced to house arrest.

19. Members of independent Afro-Cuban religions such as the Asociación Yorubas Libres also report regular harassment. According to their leaders, many Yoruba priests have been subjected to ridicule in the workplace because of their beliefs. One teacher was fired from his job after a supervisor noted that someone like him who held 'primitive beliefs' should not be teaching children. Some leaders have also reported raids by the political police in which the statues of saints, which they venerate, were thrown out of their homes.

20. The police regularly make use of 'Actas de Advertencia', a form of pre-arrest warrant which can be used to justify future arrests and criminal charges, and to restrict travel. In September 2017, Pastor Ernesto Lora was forced to sign an Acta de Advertencia after holding an interdenominational worship service in the city square in El Cristo, Santiago Province, despite having obtained permission beforehand.

**Recommendations**

21. Encourage the State Parties to fully implement constitutional provisions detailing the protection and promotion of FoRB and related rights, including freedom of expression, association and assembly.

22. Encourage State Parties to engage positively with, and issue standing invitations to all relevant Special Procedures mandate holders, granting them unhindered access to the respective countries.

23. Call on the State Parties to reinstate legal status to any religious groups whose registration was revoked arbitrarily, to ensure that all other religious groups or institutions seeking to register are able to do so, and ensure adequate protection for churches and other religious buildings when formulating regeneration and redevelopment projects.

24. Urge the State Parties to protect religious minorities and human rights defenders from arbitrary arrest, expulsion from education, termination of employment, arbitrary travel restrictions and all other forms of harassment.

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**Human rights situation in Palestine and other occupied Arab territories**

# Written statement* submitted by the Global Institute for Water, Environment and Health, a non-governmental organization in special consultative status

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*1809529*

Please recycle

# Occupied Palestinian Territory: Israeli shooting of Palestinians at checkpoints in the West Bank*

Item 7: Human rights situation in Palestine and other occupied Arab territories

## INTRODUCTION

Since its occupation of the Palestinian Territories in 1967, Israel has erected a network of checkpoints throughout the West Bank, dividing the West Bank's towns and villages and imposing a system of control over Palestinians. These checkpoints have impacted Palestinians in many different ways, including blocking their way to school, healthcare, work, and dividing families and villages. With the outbreak of the second Palestinian uprising in 2000, Israel has increased the number of checkpoints in the West Bank, further suffocating Palestinians and making their lives more complicated. These checkpoints are one component of a multi-faceted system of at least 669 checkpoints which include 17 temporary and flying checkpoints, 70 cement roadblocks, 234 earth mounds, 85 road gates, 113 gates in the Segregation Wall, as well as 71 observation towers, and 79 main checkpoints.[1]

Euro-Mediterranean Human Rights Monitor (Euro-Med) and the Global Institute for Water, Environment and Health (GIWEH) are deeply concerned about the impact of these checkpoints on the daily life of Palestinians. Tens of thousands of Palestinians have to cross Israeli checkpoints to go to their work on daily basis. There are more than 70,000 Palestinians with Israeli work permits who work beyond the Green Line due to the high rate of unemployment in the Palestinian Territories. Everyday, the workers queue at checkpoints as early as 4 AM in order to make it to their jobs. Many of them didn't manage to cross these checkpoints as they have got shot by the Israeli army[2],.

The checkpoints have also impacted tens of thousands of students who go to their schools on daily basis, pushing some of them to reside in areas away from their families to avoid Israeli checkpoints. In the West Bank city of Hebron for example, Israeli settlers and police stop Palestinian students on their way to school and hinder their movement, which sometimes lead to cancelling their classes. Some Palestinian women had to deliver at Israeli checkpoints after the Israeli army hindered their access to hospitals, thus putting their lives at risk of death.

As these checkpoints impacted the lifestyle of Palestinians in a critical manner, Palestinians had to cross them on daily basis to reach out to their schools, hospitals, workplaces, families and villages. However, recently, with the outbreak of a new wave of violence in the Palestinian Territories, due to Israel's ongoing occupation of the West Bank, the Israeli army has been adopting what mount to a policy of field executions against Palestinians at these checkpoints, and in many cases, as this statement will show, Palestinians were shot in cold blood, due to merely doubts of Israeli soldiers. Since 2015, the year violence in the West Bank has intensified, dozens of Palestinians were shot at checkpoints, many of them were innocent and were mistaken for attempting to carry out knives attacks, including students who were on their way to school[2].

## FIELD EXECUTIONS AT CHECKPOINTS

Euro-Med Monitor and GIWEH want to bring to the attention of the Human Rights Council the policy of Israeli systematic field executions at checkpoints all over the West Bank. Since 2015, these have claimed the lives of dozens of Palestinians, most of them were shot dead without posing any threat to the Israeli army and some of them were shot based on the merely doubts of Israeli soldiers. It is worth mentioning that this policy is not new, it was only intensified and became more systematic in recent years[3].

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[1] Israeli re-classifies the Status of Israeli Checkpoints in the Occupied Palestinian Territory, link http://poica.org/2009/08/israeli-re-classifies-the-status-of-israeli-checkpoints-in-the-occupied-palestinianterritory/ [2] Israel's military checkpoints: We live a life of injustice. Link: https://interactive.aljazeera.com/aje/2018/commuting-through-israeli-checkpoints/index.html

[2] https://www.btselem.org/gunfire/20151216_cases_of_unjustified_gunfire_and_executions

[3] The Palestinian Center for Human Rights. Link: http://pchrgaza.org/ar/?p=14775

Euro-Med Monitor has documented many of these executions. For example, an 18-year-old Hadil Alhashlamoun was killed at "checkpoint 56" in the old city of Hebron in the West Bank, on 22 September 2015. According to eyewitness Fawaz Abuisha, Israeli soldiers stationed at checkpoint 56 in Hebron asked her to reveal her face, as she was fully covered, and she refused to do so. He told the soldiers she didn't understand Hebrew and he translated for her, asking her to go back. As she was moving back at the request of soldiers, an Israeli soldier shot her in the leg. Other Israeli soldiers followed by shooting more bullets at her without posing a threat to them. She was left to bleed for 40 minutes without giving her any first-aid. Israeli soldiers claimed she was possessing a knife, a claim which was refuted by local eyewitnesses and photos taken by a Brazilian volunteer from the World Union of Churches' Ecumenical Accompaniment Programme in Palestine and Israel which showed the teen posed no threat to Israeli soldiers.

Euro-Mid Monitor and GIWEH are deeply worried of such acts which are in violation of the Principles for the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions (ECOSOC Principles), which were endorsed by the General Assembly of the United Nations on December 15, 1989. The principles also state that firearms may not be used against persons except in the case of self-defense or the defense of others—and even then, only when an imminent threat of death or serious injury exists, and intervention is needed to prevent a crime or flight. In addition, the Code of Conduct for Law Enforcement Officials adopted by the UN General Assembly emphasizes that the "use of force by law enforcement officials should be exceptional." While it states that law enforcement officials may be authorized to use force when reasonably necessary under the circumstances to prevent crime or assist in the lawful arrest of offenders or suspected offenders, it also clearly says that no force beyond that may be used.[4]

According to data published by the Israeli police between 2015-2017, Israeli forces have shot dead 201 Palestinians, leaving them to bleed on the ground[5]. The Israeli forces claimed that all these Palestinians attempted to carry out attacks against Israeli soldiers and settlers in the West Bank. Palestinians have refuted many of Israel's claims that these Palestinians were attempting to attack Israelis, noting that some of them were students who were on their way to/back from school, such as Palestinian high school student Farah Al-Bakri, 16, from Jerusalem, who was shot in front of her Jerusalem school after an Israeli settler claimed that she was possessing a knife on 12 October 2015.

A specially-tragic is the story of Raheeq Albirawi, 19, who was shot dead at an Israeli checkpoint to the south of Nablus, on 19 October 2016, after spending a family vacation with her family in the city of Nablus upon her return from the United States. Israeli soldiers at Zatra'a checkpoint asked her to open her bag and raise her hands up and she did. However, he shot at her without a justification, killing her.[6]

The story of Albirawi is not different from that of Palestinian prisoner Israa Aljaabis, who on 11 October 2015, was exposed to severe burns after an Israeli soldier stopped her car, shut down the door, locking her inside, after the car was moving right and left due to losing control over it due to a technical error. The police claimed that she was attempting to carry out a ramming attack, which Israa and her family have completely rejected, saying that she was a mother and had children, and recently got a driving license. Israa was locked inside the car which caught fire and was not allowed to get out of it. Israa is still suffering from a lack of medication in Israeli jails and much of her hand fingers were amputated and her facial features have completely changed.

Euro-Med Monitor and GIWEH are calling for this Israeli policy of field executions to come to an end. Dozens of Palestinians have lost their lives due to this policy. In some cases, the Israeli army has changed its narrative, shifting from the claim that these Palestinians held knives, to claiming that Israeli soldiers mistook these Palestinians for carrying knives. The Israeli government must stop this policy and allow for transparent investigations to take place. Otherwise, Palestinians will continue to lose their lives at Israeli checkpoints in the West Bank.

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[4] http://www.euromedmonitor.org/uploads/reports/ArbitraryKillings.pdf

[5] https://www.middleeastmonitor.com/20180108-israel-police-we-killed-more-than-200-palestinians-sinceend-of-2015/

[6] Palestine Newspaper. Link: http://felesteen.ps/details/news/175080/الشهيدة-رحيق-البيراوي-ودعتها-أهلها-إلى-رحلة-تغير-مسارها-.html

## ISRAELI CHECKPOINTS IN INTERNATIONAL LAW

Israel's network of checkpoints in the Occupied West Bank violate a number of international resolutions. The UN Security Council passed Resolution 242 which calls for Israel's withdrawal of all Israeli armed forces from the territories occupied in the 1967 war. Israel's refusal to withdraw from the West Bank, including dismantling checkpoints, violates this UN resolution.

Israel's checkpoints in the West Bank violates human rights, including the right to freedom of movement, the right to healthcare, and the right to education, the right to religious freedom, the right to work and the right to freedom from collective punishment, to name a few. Israeli checkpoints violate some principles stated in the Fourth Geneva Convention of 1949, such as the right of education (Article 50). Article 3 of the Conventions prohibits humiliation and degrading treatment.[7]

## CONCLUSIONS AND RECOMMENDATIONS

In light of the serious deterioration of the Palestinian right to life, especially those Palestinians crossing Israeli checkpoints on daily basis in the West Bank, as a result of Israeli forces shooting of Palestinians at checkpoints, we call on the international community, particularly the UN Human Rights Council, to take action in order to protect Palestinians' right to life and to address the Israeli policy of field executions in the West Bank, which violates international law in regard to the treatment of people living under military occupation, by taking the following steps:

- To insist on the Israeli government to instruct its soldiers scattered at various checkpoints in the West Bank to refrain from using live fire when dealing with Palestinians crossing these checkpoints.
- To insist on the Israeli government to implement an alternative approach, that gives regard to human life, and that makes using live ammunition and fire a last resort to the Israeli forces, by respecting the principles of human rights, International Law, International Human Rights Law, when attempting to preventing and combating alleged attacks.
- To insist on the Israeli government to provide the claims and evidence which it has against Palestinians it claims to have been involved in attacks.
- To open transparent investigations into the shootings of Palestinians in the West Bank at checkpoints by an international mission and to bring those responsible accountable.
- To collaborate with the relevant Palestinian authorities to collect evidence needed for such an international transparent investigation, including local eyewitnesses to shootings in various Palestinian cities.
- To speak to the families of Palestinians killed and to double-check the evidence and information they have regarding the shootings of their kids at Israeli checkpoints in the West Bank.
- To evaluate the impact these Israeli checkpoints have on the lives of Palestinians and to provide a legal opinion regarding these checkpoints.

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*Euro-Mediterranean Human Rights Monitor, an NGO without consultative status, also shares the views expressed in this statement.

[7] Israeli re-classifies the Status of Israeli Checkpoints in the Occupied Palestinian Territory, link: https://goo.gl/zgYP81